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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,654	10/26/2001	Cheryl L. Neofytides	020375-000220US	1069
20350 7590 05/11/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER AKINTOLA, OLABODE				
ART UNIT 3691		PAPER NUMBER		
MAIL DATE 05/11/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/046,654

Applicant(s)

NEOFYTTIDES ET AL.

Examiner

OLABODE AKINTOLA

Art Unit

3691

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date 3/11/2009
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claims 38, 42 and 48 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 25-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levchin et al (US 7089208) (Levchin) in view of Hilbush et al (USPAP 20050038758) (Hilbush).

Re claims 25 and 38: Levchin teaches a method for automatically transferring credit between a stored value fund maintained in a database and a handler using a wide-area computer network, the method comprising: receiving, at a server computer system having a payment controller, automated transfer information from the wide-area computer network coupled to a user associated with the stored value fund, the automated transfer information comprising handler information on one or more handlers (col. 2, lines 37-44, col. 7, lines 12-15); determining at the payment controller the handler for an automated transfer (col. 2, lines 37-39); determining at the payment controller the direction of the automated transfer with respect to the stored value fund (col. 7, lines 12-15); determining at the payment controller an amount for the automated transfer (col. 5, lines 62-66, col. 9, lines 5-8); and automatically transferring the amount between the stored value fund in the database and the handler determined for use for the automated transfer (col. 5, lines 62-66).

Levchin does not explicitly teach selecting one of the handlers as a default handler, wherein the default handler is used for the automated transfer unless a different handler is chosen by the user for the automated transfer.

Hilbush teaches the concept of selecting a default handler by a user, wherein the default handler is used for fund transfer unless a different handler is chosen by the user (Figs. 11 & 30, paragraphs 0193, 0260).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Levchin to include these features as taught by Hilbush for the obvious reason of presenting using said default handler for the automated transfer unless the user opts for a different handler, thereby enhancing the functionality of the process/system.

Re claim 26: Levchin teaches a step of determining if a transfer period has expired (col. 4, lines 11-12; col. 14, line 64 through col. 15, line 2).

Re claim 27: Levchin teaches a step of determining if a threshold amount is crossed (col. 5, lines 62-66).

Re claim 28: Levchin teaches wherein: the determining the amount step comprising a step of determining the difference between the threshold amount and a balance of the stored value fund; and the difference is equal to the transferred amount (col. 5, lines 62-66).

Re claim 29: Levchin teaches wherein the amount is included in the automated transfer information (col. 4, lines 9-11).

Re claim 30: Levchin does not explicitly teach a step of electronically notifying the user of the automated transfer, wherein the electronic notification includes at least one of a web page, an instant message, an e-mail message, a pager message, and a wireless phone message. Official notice is hereby taken it is old and well known in the fund transfer art to provide notification to

user of the system. It would have been obvious to one of ordinary skill in the art at the time of the invention to include this feature in Levchin teachings. One would have been motivated to do so in order to confirm to the user that the value has been successfully transferred.

Re claim 31: Levchin teaches wherein the server computer system comprises a plurality of computers coupled together by a computer network (figure 1).

Re claim 32: Levchin teaches, wherein the handler includes at least one of a bank, a credit card company, a debit card company, an agent location, a stored value fund, an airline mileage program, a gift certificate issuer, an electronic gift certificate issuer, and a money order issuer (col. 5, lines 62-66).

Re claim 33: Levchin teaches wherein the amount corresponds to at least one of: currency, monetary value, airline mileage, promotional program points, gift certificate credit, and commodities (col. 4, lines 34-41).

Re claim 34: Levchin teaches, wherein the automatically transferring step comprises at least one of the following steps: transferring the amount with a bank account; transferring the amount with a credit card or debit card; transferring the amount in a check or money order; transferring the amount to another's stored value fund; transferring the amount to an agent location chosen by the user; transferring a telegram or a greeting card with a check or money order for the amount; and transferring an electronic greeting card with an electronic payment notification for the amount

embedded therewith (col. 7, lines 12-15).

Re claim 35: Levchin teaches steps of: retrieving a trigger condition that initiates the automatically transferring step; and determining when the trigger condition is satisfied (col. 5, lines 62-66).

Re claim 36: Levchin teaches, wherein the trigger condition includes at least one of: a credit balance in the stored value find meeting a threshold; and a period of time expiring (col. 5, lines 62-66).

Re claim 37: Levchin teaches, wherein the user, the handler and the server computer system are remotely located with respect to each other (figure 1).

Re claims 39 and 42: See claims 25 and 35-36 analyses, supra.

Re claim 40: See claims 25, 28 and 35-36 analyses, supra.

Re claim 41: See claims 25, 32 and 35-36 analyses, supra.

Re claims 43 and 48: See claims 25 and 26 analyses, supra.

Re claim 44: See claims 25 and 27 analyses, *supra*

Re claim 45: See claims 25 and 28 analyses, *supra*

Re claim 46: See claims 25 and 35-36 analyses, *supra*.

Re claim 47: See claims 25 and 38 analyses (figure 1), *supra*

Claims 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levchin in view of Hilbush as applied to claim 43 above, and further in view of Liebermann.

Re claim 49: Levchin does not explicitly teach the use of temporary stored value funds for a single payment to a payee.

Liebermann teaches the concept of transferring money from one account to another by debiting a customer's account and placing monies into temporary account. The money is then moved from the temporary account to the account of the recipient (col. 12, lines 52-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Levchin to include this feature as taught by Liebermann so that temporary account can hold the monies for the user for a period of time and such withdrawal results in an update in the payor's account even during the period when the payee has yet to take possession of the funds.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA

/Hani M. Kazimi/
Primary Examiner, Art Unit 3691